IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.1800 of 1983

Lal Roe Measuring Tools P.Ltd. .. Plaintiff

versus

Hellenic Line & Ors. .. Defendants

...

Mr.Vimal Bhabhda i/b Apte & Co. for the plaintiff.

Mr.Kishinlal Anand Director of plaintiff present.

Mr.K.J. Gandhi i/b Mulla & Mulla for the defendant nos.1 and 2.

Mr.Sanjeev Singh i/b Narichania & Narichania for the defendant no.3.

CORAM : D.G. KARNIK,J.

DATED : 7th July 2005.

P.C.:

1. Plaintiff is present in person. Heard learned counsel for the defendant nos.2 and 3.

Learned counsel for the defendant no.3 submits that the matter has been settled. Plaintiff however does not admit the settlement.

2. The suit is for recovery of money. The defendants have not filed their written statement. The plaintiff is therefore entitled to a decree under Order 8 Rule 10 of the Code of Civil Procedure.

3. Learned counsel for the defendant no.2 submits that the plaint does not disclose any cause of action against him and hence it should be rejected under Order 7 Rule 11 of the Code of Civil Procedure. He relies upon a decision of this Court in The Board of Trustees of the Port of Bombay and Lucinda Shipping Ind. (Notice of Motion no. 3811 of 1999 in Suit no.2805 of 1991 decided on 6th September 2001). I have perused the plaint. I am unable to agree that the plaint does not disclose any cause of action against defendant no.2. It is one thing to say that the suit is liable to be dismissed on merits and another thing to say that the plaint does not disclose any cause of action.

4. The defendant no.2 has not made any defence

by filing any written statement entitling the plaintiff to a decree under Order 8 Rule 10 of the Code of Civil Procedure. Hence, I pass the following order:

. The Suit of the plaintiff is decreed under Order 8 Rule 10 of the Code of Civil Procedure in terms of prayer clauses (a) and (b) of the plaint.

D.G. KARNIK, J